



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,154	03/30/2001	Robert A. Immerman	IN0191US (#90067)	6306

28672 7590 12/18/2001

D. PETER HOCHBERG CO. L.P.A.
1940 EAST 6TH STREET
CLEVELAND, OH 44114

EXAMINER

WEINHOLD, INGRID M

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 12/18/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,154

Applicant(s)

IMMERMAN, ROBERT A.

Examiner

Ingrid M Weinhold

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 3/30/01 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Specification

The disclosure is objected to because

1) while claims 5 and 15 claim soldering, this fastening arrangement was never discussed in the specification.

2) page 4, line 14 uses the terms "contruction techniques", and in line 4 it is disclosed that adhesive can be used to "contract" the device. It is unclear if welding, brazing and adhesives are to be used during the construction of the attaching device itself or to be used to fasten the attaching device to another fixture.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1,7-9,11,17-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Raphael (Des. 194,307). Raphael shows a first pair of horizontal, generally parallel, rigid wires, a second pair of vertical rigid wires transverse to and

engaging the first pair of rigid wires defining an opening for receiving the head of a suction cup and for retaining the neck in the opening, and a fastening arrangement that holds the second pair of wires attached to the fixture. The suction cup has a compressible head attached to a neck, the neck is attached to an engagement member, the head is insertable into the opening and the neck is retained in the opening.

Claim 1, and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Standley (3,186,671). Standley shows a first pair of horizontal, generally parallel, rigid wires (wires between b4 to b5), a second pair of rigid wires (A) transverse to and engaging the first pair of rigid wires defining an opening for receiving the head of a suction cup and for retaining the neck in the opening, and a fastening arrangement (D) for fastening the device to a fixture. Regarding claim 6, the first pair of wires (wires between b4 and b5) is comprised of two wires, which are parallel to each other and the second pair of wires (A) is comprised of two wires which are not parallel to each other.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raphael in view of Macek (5,620,105). Raphael shows all the

features claimed in the applicant's invention but does not specifically state that the fixture and device are made of metal since it is a design patent. Macek however shows another shower caddy and discloses that it is made of metal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the caddy shown in Raphael out of metal for durability purposes. The further limitation of the device being fastened to the fixture by welding, brazing, soldering or by using adhesive is a design choice and the applicant did not disclose any reason for why the device and fixture critically had to be fastened with one of those techniques. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have chosen to use well-known techniques such as welding, brazing, soldering or by using adhesive for their design choice in order to securely fix the device to the fixture.

Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster (5,039,046) in view of Downing (1,531,694). Brewster shows a device for attaching a suction cup to a fixture comprising a pair of rigid, generally parallel wires (21, a pair on each side of the fixture) where a V-shaped bend (25) defines an opening for receiving the head of a suction cup and for retaining the neck, and a fastening arrangement at the ends of the wires (21) for fastening them to the fixture. The suction cup (20) has a compressible head attached to a neck (24), the neck is attached to an engagement member, the head is insertable into the opening and the neck is retained in the opening. Brewster however only shows one V-shaped bend instead of one on each wire. Downing shows a bend (C) on either side of the opening (7) for a suction cup.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included one bend in each wire by Brewster in order to further accommodate for suction cups with different diameter necks.

Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Standley in view of Protz, Jr. (5,595,364). Standley shows an assembly comprising a first pair of horizontal, generally parallel, rigid wires (wires between b4 to b5), a second pair of rigid wires (A) transverse to and engaging the first pair of rigid wires defining an opening, and a fastening arrangement (D) for fastening the assembly to a fixture. The first pair of wires (wires between b4 and b5) is comprised of two wires, which are parallel to each other and the second pair of wires (A) is comprised of two wires which are not parallel to each other. Standley shows all features claimed by the applicant's invention but does not show however a suction cup. Protz, Jr. shows a suction cup (25) with a compressible head (27) attached to a neck (28), the neck is attached to an engagement member (26), the head is insertable into the opening of the device (38) and the neck is retained in the opening. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have attached the device by Standley to a suction cup rather than a radio knob so that the device could hang from a suction cup attached to a window and prevent damage from being done to the radio knobs in the car caused by the weight of the fixture and its contents.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ades	U.S. Patent	Des. 423,327
Edwards	U.S. Patent	Des. 330,290
Heraty	U.S. Patent	2,185,299
Adams	U.S. Patent	Des. 332,390
Von Unruh	U.S. Patent	1,230,242
Lee	U.S. Patent	5,611,511
Philipps et al.	U.S. Patent	5,028,026
Emery et al.	U.S. Patent	5,657,954
Stroh	U.S. Patent	3,789,996

The above patents disclose suction cups and various fixtures that can be used with suction cups.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ingrid Weinhold whose telephone number is (703)-306-5762.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-3519 for informal documents and (703) 305-3597 for formal regular communication and After Final Communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

DW

Ingrid Weinhold
Patent Examiner
Technology Center 3600
Art Unit 3632



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER

United States Patent Office

Des. 194,307
Patent d Jan. 1, 1963

194,307

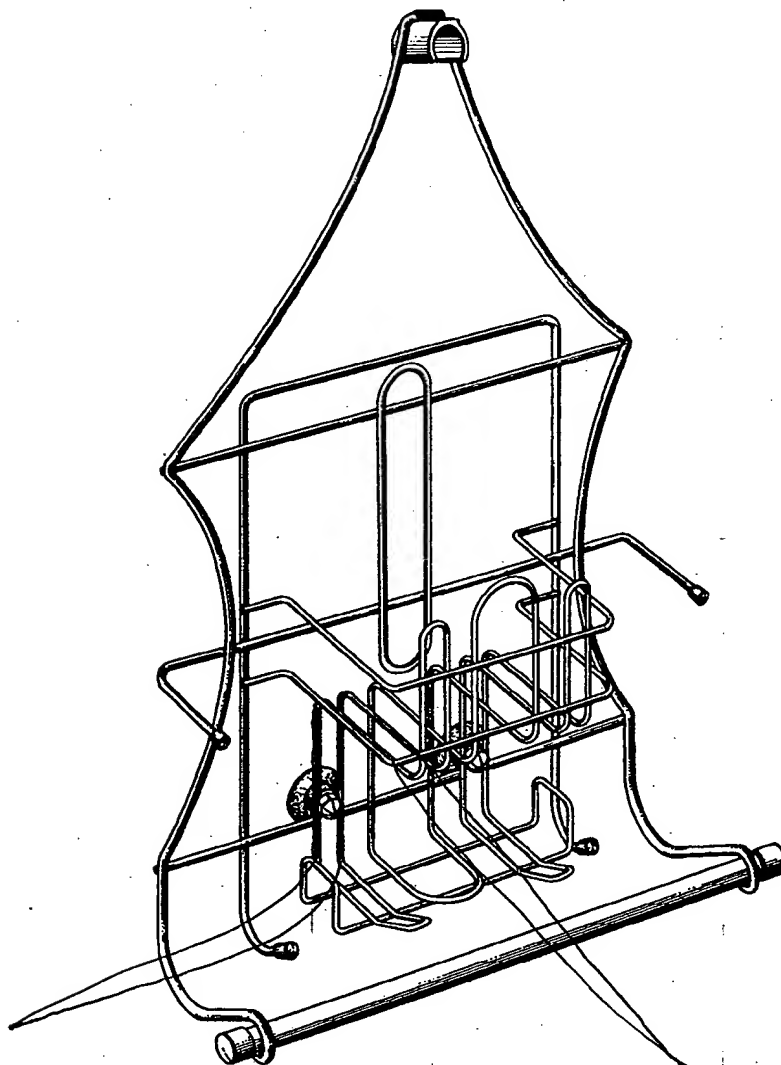
HOLDER FOR BATH ARTICLES FOR USE WITH SHOWERS

Julius Raphael, 720 Devirian Place, Alhambra, Calif.

Filed May 21, 1962, Ser. No. 70,222

Term of patent 14 years

(Cl. D4-3)



2 vertical
parallel wires

2 horizontal
parallel wires

The figure is a front perspective view of a holder for bath articles for use with showers showing my new design. I claim:

The ornamental design for a holder for bath articles for use with showers as shown.

References Cited in the file of this patent

UNITED STATES PATENTS

1,315,823 Dugan ----- Sept. 9, 1919

OTHER REFERENCES

Mott's Plumbing Cat. A, rec'd March 8, 1948, page 155, Item Plate 3509-A.